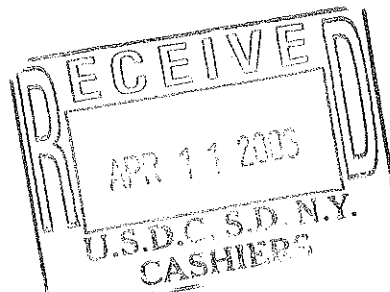


JUDGE SULLIVAN  
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199-08/DPM/MAM  
FREEHILL HOGAN & MAHAR, LLP  
Attorneys for Plaintiffs  
LIBRA SHIPPING PTE. LTD.  
80 Pine Street  
New York, NY 10005  
Telephone: (212) 425-1900 / Facsimile: (212) 425-1901  
Don P. Murnane, Jr. (DM 3639)  
Manuel A. Molina (MM 1017)



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
LIBRA SHIPPING PTE. LTD.,

08 CIV. \_\_\_\_\_ ( )

Plaintiff,

VERIFIED COMPLAINT

-against-

TONGLI SHIPPING CO. LTD.,

Defendant.  
-----X

Plaintiff LIBRA SHIPPING PTE. LTD. ("LIBRA"), by its attorneys Freehill Hogan & Mahar, LLP, as and for its Verified Complaint against Defendant TONGLI SHIPPING CO. LTD. ("TONGLI"), alleges upon information and belief as follows:

### JURISDICTION

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure in that it involves claims for breaches of a maritime charter party contract. The case also falls within this Court's admiralty and maritime jurisdiction pursuant to 28 U.S.C. §1333, *et seq.* and / or the Arbitration Act, 9 U.S.C. §1 *et seq.* and /or §201 *et seq.* and this Court's federal question jurisdiction pursuant to 28 U.S.C. §1331.

**PARTIES**

2. At all times relevant hereto, LIBRA was and still is a foreign business entity organized and existing under the laws of a foreign country, with a registered office and place of business at Shenton Way, 19-08 Shenton House, Singapore 068805. LIBRA was at all relevant times the charterer of the vessel M/V FAR EAST SUN.

3. At all times relevant hereto, TONGLI was and still is a business entity organized and existing under the laws of a foreign country, with an office and place of business at Room 1506, Qili Mansion, 80 Chaoyang Street, Yantai, China. TONGLI was the owner of the M/V FAR EAST SUN.

**NATURE OF THE CLAIMS**

4. On or about December 1, 2007, TONGLI, as owner of the M/V FAR EAST SUN, entered into a maritime contract on an amended GENCON charter party form with LIBRA as charterer, for the use and operation of the vessel.

5. The charter party contract between LIBRA and TONGLI contemplated one charter trip for the transportation onboard the vessel of 20,000 MT of BULK MAIZE, 10% MOLOO ("more or less in owner's option"), from the loading port of Kakinada, India, to the discharging ports of Kunsan, Inchon and Ulsan, in South Korea.

6. TONGLI tendered the M/V FAR EAST SUN under the charter party agreement and the vessel commenced performance under the command and operation of LIBRA.

7. LIBRA has met all of its obligations to TONGLI pursuant to their charter party agreement.

**CLAIMS FOR OUTSTANDING DESPATCH**

8. LIBRA, as per the terms of the charter party agreement, was required to complete loading and discharge operations at each port in 6 days, 20 hours and 41 minutes (*i.e.* the laytime). The charter party stipulated a despatch rate of "\$13,500 per day pro rata at both ends". In essence, despatch is the compensation by the shipowner to the charterer as a "reward" when the charterer completes cargo operations in less time than the laytime allowed under the parties' maritime contract. Thus, if LIBRA completed the loading and discharging operations at each port in less time than that permitted under the charter, LIBRA was entitled to receive a reimbursement from TONGLI to be calculated on the basis of the saved time and the stipulated despatch rate.

9. At the loading port of Kakinada, LIBRA performed all cargo operations in 5 days, 1 hour and 19 minutes, thereby saving a total time of 1 day, 19 hours and 22 minutes. As a result, LIBRA was entitled to receive despatch from TONGLI in the sum of \$24,400.88, or 1.8075 days x \$13,500. Exhibit A annexed hereto specifically shows how the Kakinada despatch claim was calculated.

10. At the discharging port of Kunsan, LIBRA performed all cargo operations in 2 days, 3 hour and 40 minutes, thereby saving a total time of 4 days, 17 hours and 1 minute. As a result, LIBRA was entitled to receive despatch from TONGLI in the sum of \$63,579.00, or 4.7096 days x \$13,500. Exhibit B annexed hereto specifically shows how the Kunsan despatch claim was calculated.

11. Although LIBRA duly demanded full payment in the sum of \$87,979.88 for its outstanding despatch claims, TONGLI, in violation of the charter party contract, has wrongfully refused or otherwise failed to pay same.

**RELIEF SOUGHT**

12. Pursuant to the terms of the charter party contract, all disputes are subject to London arbitration, with English law to apply. LIBRA has commenced arbitration proceedings against TONGLI in London. LIBRA specifically reserves its right to arbitrate the merits of its dispute with TONGLI pursuant to the terms of the charter party contract.

13. This action is brought to obtain jurisdiction over TONGLI and to obtain security in favor of LIBRA in respect to its despatch claims against TONGLI, including but not limited to interest, LIBRA's anticipated attorneys' fees and costs in the arbitration, all of which are recoverable as part of the Plaintiff's main claims under English law.

14. After investigation, Defendant TONGLI cannot be "found" within this District for the purpose of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims, but Plaintiff is informed that Defendant has, or will shortly have, assets within this District comprising, *inter alia*, cash, funds, credits, debts, wire transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or for the benefit of Defendant or as may be held, received or transferred for its benefit at, moving through, or being transferred and/or wired to or from banking institutions or such other garnishees who may be served with a copy of the Process of Attachment issued herein.

15. As nearly as presently can be computed, the total amount sought to be attached pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims by LIBRA against TONGLI includes:

- (a) LIBRA's claim for outstanding dispatch at the port of Kakinada in the sum of \$24,400.88;
- (b) LIBRA's claim for outstanding dispatch at the port of Kunsan in the sum of \$63,579.00;

- (c) Interest in the amount of \$25,251.86, calculated on the above sums at the rate of 8.5% per annum, compounded quarterly, for three years, the estimated time it will take to obtain a final arbitration award according to the advice of English solicitors, which interest is recoverable under English law; and
- (d) Legal fees, arbitrator fees and costs that will be incurred by Plaintiff in respect to the London arbitration which are recoverable pursuant to English law and are estimated to be by English solicitors in the sum of \$30,000.

16. Based upon the foregoing, the total amount LIBRA seeks to attach in this action, pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, is **\$143,231.74**.

W H E R E F O R E, Plaintiff LIBRA prays:


- a. That process in due form of law according to the practice of this Court may issue against Defendant TONGLI, citing it to appear and answer the foregoing, failing which a default will be taken against it for the principal amount of the claim of \$87,979.88, plus interest, costs and attorneys' fees;
- b. That if the Defendant cannot be found within this District pursuant to Supplemental Rule B, all tangible or intangible property of the Defendant as described herein, up to and including the amount of the claims of **\$143,231.74** be restrained and attached, including, but not limited to any cash, funds, credits, debts, wire transfers, accounts, letters of credit, freights, charter hire, sub-charter hire, and/or other assets of, belonging to, due, held or being transferred to or for the benefit of the Defendant at, moving through, or being transferred and/or wired

to or from banking institutions or such other garnishees who may be served with a copy of the Process of Attachment issued herein;

- c. That the Court enter an order directing Defendant to appear and respond in arbitration as required, or, to the extent an award is rendered against the Defendant, to confirm that award as a judgment of this Court; and
- d. That Plaintiff have such other, further and different relief as this Court may deem just and proper.

Dated: New York, New York  
April 11, 2008

FREEHILL HOGAN & MAHAR, LLP  
Attorneys for Plaintiff  
LIBRA SHIPPING PTE. LTD.

By:   
Don P. Murnane, Jr. (DM 3639)  
Manuel A. Molina (MM 1017)  
80 Pine Street  
New York, NY 10005

**ATTORNEY VERIFICATION**

State of New York     )  
                                      ) ss.:  
County of New York    )

Manuel A. Molina, being duly sworn, deposes and says:

1. I am an attorney with the law firm of Freehill Hogan & Mahar, LLP, attorneys for the Plaintiff in this action. I have read the foregoing Amended Verified Complaint and know the contents thereof, and the same is true to the best of my knowledge, information and belief.
2. The sources of my information and the grounds for my belief are communications from our client and documents provided by our client regarding this claim.
3. The reason this verification is made by an attorney and not by the Plaintiff is because the Plaintiff is a foreign entity, none of whose officers are presently within the State of New York.

  
\_\_\_\_\_  
Manuel A. Molina

Sworn to before me this  
11 th day of April, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC

**JOAN SORRENTINO**  
Notary Public, State of New York  
No. 01SO6067227  
Qualified in New York County  
Commission Expires December 3, 2009

**EXHIBIT A**



*Libra Shipping Services LLC*

P.O.Box 27184 , Dubai, U.A.E

**LAYTIME CALCULATIONS**

OUR REF (005)

M / V  
A / CFAREAST SUN  
TONGLI SHIPPING CO. LTD.

LOADED AT KAKINADA

	dd/mm/yy	hh:mm	Day
VESSEL ARRIVED:	17-Dec-07	21:30	Mon
NOR TENDERED	17-Dec-07	21:30	Mon
NOR DEEMD TO BE TENDERED	18-Dec-07	8:00	Tue
NOR DEEMD TO BE ACCEPTED	18-Dec-07	8:00	Tue
LOADING COMMENCED:	18-Dec-07	19:30	Wed
LOADING COMPLETED:	31-Dec-07	22:40	Mon
LAYTIME TO COMMENCE :	18-Dec-07	13:00	Tue
TIME TO START COUNTING	18-Dec-07	13:00	Tue

BILL OF LADING TONNAGE	LOADED	20,587.00	MT
DEMURRAGE RATE		27,000	USD
DESPATCH RATE		13,500	USD
LOADING RATE AS PER AGREEMENT:		3,000	MT

as per agreement

LAYCAN  
NOR  
TURN TIME

12/20 DECEMBER 2007

OFFICE HRS

13 - 8 SAT NOON

SHEX EIU

DATE	DAY	FROM hh:mm	TO hh:mm	TIME TO COUNT Y/N	DESCRIPTION	TIME USED d hh mm	TOTAL TIME d hh mm	REMARKS
18-Dec-07	Tue	13:00	14:30	Y 1.00		0 01 30	0 01 30	
		14:30	24:00	N 0.00	HATCH FAILED	0	0 01 30	
19-Dec-07	Wed	0:00	14:00	N 0.00	HATCH FAILED	0	0 01 30	
		14:00	24:00	Y 1.00		0 10 00	0 11 30	
20-Dec-07	Thu	0:00	11:00	Y 1.00		0 11 00	0 22 30	
		11:00	12:00	Y 0.50	DERRICK NO. 3 & 4 REPAIR	0 00 30	0 23 00	
		12:00	24:00	N 0.00	CP HOLIDAY (BAKRI EDD)	0	0 23 00	
21-Dec-07	Fri	0:00	24:00	N 0.00	CP HOLIDAY (BAKRI EDD)	0	0 23 00	
22-Dec-07	Sat	0:00	8:00	N 0.00	CP HOLIDAY (BAKRI EDD)	0	0 23 00	
		8:00	12:00	Y 1.00		0 04 00	1 03 00	
		12:00	24:00	N 0.00	SHEX EIU	0	1 03 00	
23-Dec-07	Sun	0:00	24:00	N 0.00	SHEX EIU	0	1 03 00	
24-Dec-07	Mon	0:00	8:00	N 0.00	SHEX EIU	0	1 03 00	
		8:00	12:00	Y 1.00		0 04 00	1 07 00	
		12:00	24:00	N 0.00	CP HOLIDAY (CHRISTMAS)	0	1 07 00	
25-Dec-07	Tue	0:00	24:00	N 0.00	CP HOLIDAY (CHRISTMAS)	0	1 07 00	
26-Dec-07	Wed	0:00	8:00	N 0.00	CP HOLIDAY (CHRISTMAS)	0	1 07 00	
		8:00	21:14	Y 1.00		0 13 14	1 20 14	
		21:14	21:35	N 0.00	SHIFTING	0	1 20 14	
		21:35	24:00	Y 1.00		0 02 25	1 22 39	
27-Dec-07	Thu	0:00	24:00	Y 1.00		1 00 00	2 22 39	
28-Dec-07	Fri	0:00	24:00	Y 1.00		1 00 00	3 22 39	
29-Dec-07	Sat	0:00	12:00	Y 1.00		0 12 00	4 10 39	
		12:00	24:00	N 0.00	SHEX EIU	0	4 10 39	
30-Dec-07	Sun	0:00	24:00	N 0.00	SHEX EIU	0	4 10 39	
31-Dec-07	Mon	0:00	8:00	N 0.00	SHEX EIU	0	4 10 39	
		8:00	22:40	Y 1.00		0 14 40	5 01 19	

TIME ALLOWED: 6 d 20 hrs 41 mins

TOTAL TIME USED: 5 d 01 hrs 19 mins

TIME SAVED 1 d 19 hrs 22 mins

DESPATCH DUE IN DAYS: 1.8075 at US\$ 13,500 pdpr= 24,400.88 US\$

des/dem-sums 1.8075

E.O.E.

**EXHIBIT B**

*Libra Shipping Services LLC*

P.O.Box 27184 , Dubai, U.A.E

**LAYTIME CALCULATIONS**

OUR REF (005)

M/V

FAREAST SUN

DISCHARGED AT

KUNSAN

A/C

TONGLI SHIPPING CO., LTD.

	dd/mm/yy	hh:mm	Day
VESSEL ARRIVED:	24-Jan-08	13:40	Thu
NOR TENDERED	24-Jan-08	13:40	Thu
NOR DEEMD TO BE TENDERED	24-Jan-08	13:40	Thu
UNLOADING COMMENCED:	24-Jan-08	18:00	Thu
UNLOADING COMPLETED:	29-Jan-08	17:00	Tue
LAYTIME TO COMMENCE:	25-Jan-08	8:00	Fri
TIME TO START COUNTING	26-Jan-08	8:00	Fri

BILL OF LADING TONNAGE	UNLOADED	20,587.00	MT
DEMURRAGE RATE		27.000	USD
DESPATCH RATE		13.500	USD
UNLOADING RATE AS PER AGREEMENT:		3.000	MT

LAYCAN  
NOR  
TURN TIMEOFFICE HRS  
13 - 8 SAT NOON

DATE	DAY	FROM hh:mm	TO hh:mm	TIME TO COUNT Y/N	DESCRIPTION	TIME USED d hh mm	TOTAL TIME d hh mm	REMARKS
25-Jan-08	Fri	6:00	8:40	Y 1.00		0 02 40	0 02 40	
		8:40	12:00	y 0.75	DERRICK NO.1 OUT OF ORDER.	0 02 30	0 05 10	
		12:00	24:00	y 1.00		0 12 00	0 17 10	
26-Jan-08	Sat	0:00	12:00	y 1.00		0 12 00	1 05 10	
		12:00	24:00	n 0.00	SHEX EIU	0	1 05 10	
27-Jan-08	Sun	0:00	24:00	N 0.00	SHEX EIU	0	1 05 10	
28-Jan-08	Mon	0:00	8:00	N 0.00		0	1 05 10	
		8:00	18:00	Y 1.00		0 10 00	1 15 10	
		18:00	24:00	Y 0.25	NTC - cargo seperation difficulty	0 01 30	1 16 40	
29-Jan-08	Tue	0:00	8:00	Y 0.25	NTC - cargo seperation difficulty	0 02 00	1 18 40	
		8:00	17:00	Y 1.00		0 09 00	2 03 40	

TIME ALLOWED: 6 d 20 hrs 41 mins

TOTAL TIME USED: 2 d 03 hrs 40 mins

TIME SAVED 4 d 17 hrs 01 mins

DESPATCH DUE IN DAYS: 4.7096 at US\$ 13,500 pdpr= 63,579.00 US\$

des/dem sums 4.7096

E.O.E.